

**ANALYSIS OF AMENDED BILL**

Author: Chu Analyst: Deborah Barrett Bill Number: AB 346  
Related Bills: See Legislative History Telephone: 845-4301 Amended Date: 05-16-2005  
Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

<b>SUBJECT:</b>	State Claims/Filing Fee
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**SUMMARY**

This bill would appropriate funds for payments of claims against state entities approved by the Victims Compensation and Government Claims Board, establishes criteria for the waiver of fees to file claims, and authorizes the responsible state entity to pay any waived fees on approved claims against that entity.

**SUMMARY OF AMENDMENTS**

The April 25, 2005, amendments provided circumstances for fee waivers for claims presented to the California Victim Compensation and Government Claims Board (Board) and provisions to charge the responsible state entity on approved claims for which the fees were waived. The amendments establish the date the claim is presented to determine whether a claim is commenced within the period provided by law. The amendments also appropriated funds for payment of the claims accepted by the board.

The May 16, 2005, amendments added an operative date for certain amendments to the Government Code and added urgency language to make the provisions of this bill effective immediately.

This is the department's first analysis of this bill.

**PURPOSE OF THE BILL**

According to the authors staff the purpose of this bill is to provide funding to pay claims against the state and end the hardship to claimants as quickly as possible.

**EFFECTIVE/OPERATIVE DATE**

The operative date of this bill would be the latter of July 1, 2005, or upon the enactment of the Budget Act of 2005, and the effective date would be immediate upon passage of this bill.

**POSITION**

Pending

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

Department Director

Will Bush

Date

07/27/2005

## **ANALYSIS**

### **STATE LAW**

Under current state law, taxpayers can file claims for monetary damages caused by a state agency through the Government Claims Program. Claims for money or damages against the state can be made:

- Where no appropriation or fund is available, but payment is provided for by statute or constitutional provision,
- When the appropriation made or fund is exhausted
- On express contract, and
- For injury for which the state is liable or where settlement is not provided by statute or constitutional provision.

Claims must be presented within certain time limits. Payment of a filing fee is required, and may include such issues as:

- Damage to real or personal property,
- Reimbursement for state employee property loss, benefits, salary, or travel expenses,
- Refund of a tax, fee, or penalty; or
- Contract disputes.

Taxpayers are required to file a government claim before beginning a lawsuit against a state agency. This process allows the state an opportunity to investigate and, possibly, settle claims without the need for litigation. Claims submitted to the Board are referred to the involved state agency for its review and recommendation. The state agency recommends that the Board reject the claim, approve it in full, or partially approve the claim.

Once the Board staff receives and reviews the involved state agency's response, it makes its own recommendation to the three-member Board that then decides on claims at a public meeting. Written confirmation of the Board's decision is sent to the claimant shortly after the meeting, with a copy to the involved state agency. Approved tort claims are paid by the involved state agency. The Office of the Attorney General pays tort claims for agencies whose funding does not come from the General Fund (tax money).

Approved equity claims are included in one of two omnibus claims bills submitted to the Legislature each year. Once the Legislature and the Governor approve the claims bills, the Board pays the claimant. However, the Legislature and Governor may still delete a claim from a claims bill. The Board would then notify the claimant that he/she might initiate court action against the state agency.

### **THIS BILL**

This bill provides for waivers of the filing fee in certain circumstances. The following individuals are eligible for a fee waiver:

- Persons receiving benefits pursuant to Supplemental Security Income (SSI) or State Supplemental Payments Programs (SSP),
- Persons whose monthly income is 125% or less of the current monthly poverty line annually established by the Secretary of California Health and Human Services Agency, and
- Persons who are sentenced to imprisonment in a state prison, or confined in a county jail, or who are residents in a state institution, and within 90 days prior to the date the claim is filed have a balance of \$100 or less credited to the inmate's or resident's trust account.

This bill provides that individuals requesting the waiver must include with their claim, a signed affidavit requesting the waiver and verification of benefits or income and any other required financial information in support of the request for the waiver. There is no hearing held on denials of the waiver requests.

Under the provisions of this bill, except for fees charged for the reimbursement of expired warrants, fees are refunded if the claim is approved. If the claimant was granted a fee waiver, the amount of the fee on an approved claim is paid by the state entity to the Board. Existing law provides that the Board may assess a surcharge to the state entity against which the approved claim was filed in an amount not to exceed 15% of the total approved claim. The bill provides that upon request, the State Controller is to transfer the surcharges and fees from the state entity's appropriations to the appropriation for support of the Board.

This bill provides that for purposes of determining whether a claim was initiated within the period provided by law, the date the claim was presented to the Board with a paid filing fee will be the operative date. If a fee waiver is granted, the date the claim was submitted with the affidavit requesting the fee waiver will be the operative date, and if the fee waiver is denied, the date the claim was presented, as long as the fee was paid within 10 calendar days of the mailing of the notice of denial of the fee waiver.

This bill appropriates \$1,082,007.08 from various funds to the board for payment of claims accepted by the board.

#### IMPLEMENTATION CONSIDERATIONS

This bill would not impact the departments operations or programs.

#### **FISCAL IMPACT**

The provisions of this bill would require the department to reimburse the board for waived filing fees on approved claims. This bill would not significantly impact the department's costs.

#### **ECONOMIC IMPACT**

This bill would not impact the state's tax revenues.

#### **LEGISLATIVE STAFF CONTACT**

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